

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Victoria's Secret Brand Management, Inc. :  
: Plaintiff/Appellant, :  
: : Case No.: 07-cv-5804 (GEL)  
: v. :  
: Sexy Hair Concepts, LLC :  
: Defendant/Appellee. :  
: :  
:

**SUPPLEMENTAL DECLARATION OF JOHN F. METZGER IN SUPPORT OF  
MOTIONS IN LIMINE OF DEFENDANT/APPELLEE SEXY HAIR CONCEPTS TO  
PRECLUDE THE TESTIMONY OF EXPERTS PAUL LABRECQUE  
AND GERALD L. FORD**

John F. Metzger declares:

1. I am a citizen of the United States, over 18 years old and a resident of Montgomery County in the Commonwealth of Pennsylvania.
2. I am employed as a legal assistant with Eckert Seamans Cherin & Mellott, LLC in Philadelphia, Pennsylvania.
3. I have worked as a paralegal since October of 1994 and was employed at Ballard Spahr Andrews & Ingersoll, LLP in Philadelphia, Pennsylvania from September 1997 until February 2008 when I joined the firm of Eckert Seamans Cherin & Mellott, LLC .
4. My duties include general, internet and legal research, litigation support, document review and analysis, document organization and control, and electronic discovery support among others.

5. In his expert report submitted in this proceeding, Mr. Paul Labrecque states that he developed a full line of hair care products, and that these products are offered for sale through his salons at on his webpage located at [paullabrecque.com](http://www.paullabrecque.com). Exhibit B to Mr. Labrecque's expert report clearly shows that the URL for Mr. Labrecque's website is <http://www.paullaabrecque.com>. On June 4, 2008, I visited Mr. Labrecque's website to investigate the retail costs of his hair care products, specifically shampoo and conditioner. On the home page of Mr. Labrecque's website is a link to his product line which he advertises as "Paul Labrecque Luxury Haircare." Following this link, I arrived at a webpage showing the various lines that comprise the Luxury Hair Care line by Paul Labrecque including daily, color, volume, straight, curly and repair segments. For example, the straight collection is comprised of four products: shampoo, condition(er), style(r) and straight finish. According to the information contained on Mr. Labrecque's website, an 8.0 fluid ounce bottle of straight shampoo costs \$25.00 and an 8.0 fluid ounce bottle of straight condition(er) costs \$30.00. True and correct copies of webpage printouts from the website at [www.paullabrecque.com](http://www.paullabrecque.com) are attached hereto as Exhibit A.

6. On June 4, 2008, I visited a Victoria's Secret retail store at Liberty Place located between the 1600 block of Market and Chestnut streets in Philadelphia, Pennsylvania. According to the products' packaging, a 10.0 fluid ounce bottle of Victoria's Secret SO SEXY shampoo regularly costs \$9.50, and an 10.0 fluid ounce bottle of Victoria's Secret SO SEXY conditioner also costs \$9.50.

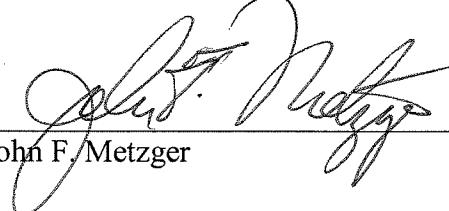
7. Additionally, on June 4, 2008, I visited a Rite Aid store at the corner of 16<sup>th</sup> & Chestnut Streets in Philadelphia, Pennsylvania. According to the products' packaging, a 10 fluid ounce bottle of Sexy Hair Concept's STRAIGHT SEXY HAIR shampoo costs \$8.99,

and an 8.5 fluid ounce bottle of Sexy Hair Concept's STRAIGHT SEXY HAIR conditioner costs \$8.19.

8. On June 5, 2008, I performed a search on the United States Patent and Trademark Office's website located at <http://ttabvue.uspto.gov/ttabvue> for a copy of the Consolidated Notice of Opposition in Proceeding No. 91,180,866, Victoria's Secret Stores Brand Management, Inc. v. United Retail Corporation. A true and correct copy of Victoria's Secret Stores Brand Management, Inc.'s Consolidated Notice of Opposition as filed on November 21, 2007 and bearing ESTTA Tracking Number ESTTA176246 is attached hereto as Exhibit B.

I declare under penalty of perjury that the foregoing is true and correct.

Date: June 6, 2008

  
John F. Metzger